

**CITY OF LOCKPORT**  
**CORPORATION PROCEEDINGS**

Lockport Municipal Building

Regular Meeting  
Official Record

December 19, 2012  
6:00 P.M.

Mayor Michael W. Tucker called the meeting to order.

**ROLL CALL**

The following Common Council members answered the roll call:

Aldermen Kibler, Lombardi, McCaffrey, Fogle, Schrader, and Genewick.

**RECESS**

Recess for public input.

**121912.1**

**APPROVAL OF MINUTES**

On motion of Alderman Kibler, seconded by Alderman Lombardi, the minutes of the Regular Meeting of December 5, 2012 are hereby approved as printed in the Journal of Proceedings. Ayes 6. Carried.

**FROM THE MAYOR**

**Appointments:**

12/11/12 Under and by virtue of the authority conferred on me by the Charter of the City of Lockport, I, Michael W. Tucker, Mayor of the City of Lockport, do hereby make the following appointments to the Emergency Response Committee:

Norm Allen, Director of Engineering  
Police Lt. Steve Abbott  
Police Lt. Todd Chenez

Received and filed.

## FROM THE CITY CLERK

The Clerk submitted payrolls, bills for services and expenses, and reported that the Department Heads submitted reports of labor performed in their departments. Referred to the Finance Committee.

**Communications** (which have been referred to the appropriate City officials)

12/6/12 Joseph Macaluso, Acting City Assessor – notification that the General City Tax rolls have been completed, corrected and filed.  
Referred to the Committee of the Whole

12/7/12 Richelle J. Pasceri, City Clerk – notification that one bid proposal for water meters was received on December 6, 2012 from Lock City Supply, Inc., Lockport, NY as follows:

Automated Meter Reading System  
Meter and Transmitter

5/8" Water Meter	196.39 per meter
3/4"	230.61
1"	310.64
1 1/2"	514.24
2"	736.05

Transmitter (less meter)

5/8" Water Meter	140.05 per transmitter
3/4"	140.05
1"	140.05
1 1/2"	146.37
2"	146.37

Referred to the Committee of the Whole.

12/10/12 Ken Genewick, Great Lakes Racing LLC – request permission to use the rest room facilities at Wide Waters Marina for the first annual Beast of Burden Winter 100 Miler Marathon on Saturday, January 26, 2013.  
Referred to the Committee of the Whole.

12/11/12 Niagara County Industrial Development Agency, 6311 Inducon Corporate Drive, Sanborn, NY – notice of public hearing for 210 Walnut St., LLC on January 3, 2012 at 4:00 PM in Council Chambers at the Lockport Municipal Building.  
Referred to the Director of Planning and Development

12/13/12 Niagara County Planning Board, 6311 Inducon Corporate Drive, Sanborn, NY – notification of the 2013 Niagara County Planning Board meeting schedule.  
Referred to the Building Inspection Department

12/18/12 Richelle J. Pasceri, City Clerk – notification that the Lockport Municipal Offices will be closed on the following days in December and January for Christmas and New Years:

Monday, December 24 (closed at 12 noon)

Tuesday, December 25

Monday, December 31 (closed at 12 noon)

Tuesday, January 1, 2013

The garbage collection schedule is as follows:

There will be no garbage collection on Tuesday, December 25<sup>th</sup> & Tuesday, January 1<sup>st</sup>.

Garbage scheduled for collection on December 25<sup>th</sup> through December 28<sup>th</sup> and January 1<sup>st</sup> through January 4<sup>th</sup> will be collected on the day following regularly scheduled collection

Bulk items will be collected the week of January 7<sup>th</sup>

Referred to the Media

**Notice of Defect:**

12/14/12 544 Willow Street, Lockport, NY – tree  
Referred to the Director of Engineering.

**MOTIONS & RESOLUTIONS**

**121912.2**

By Alderman Genewick:

Resolved, that the Mayor and City Clerk be authorized to issue orders in favor of the claimants for payrolls, bills, and services to be paid on December 21, 2012.

Seconded by Alderman Kibler and adopted. Ayes 6.

**121912.3**

By Alderman Genewick:

Resolved, that claims authorized for payment by the Director of Planning and Development, and subsequently paid from the Community Development Escrow Account, be and the same are hereby approved.

Seconded by Alderman Lombardi and adopted. Ayes 6.

**121912.4**

By Alderman Lombardi:

Resolved, that pursuant to Section 32 of the NYS Public Housing Law and subject to Corporation Counsel approval, salary increases for the City of Lockport Housing Authority employees are approved as follows:

For the CSEA Local 832 union employees:

2% increase retroactive for a ten month period in 2012

2% increase from 12/1/2012 through the end of the current fiscal year 3/31/13

3% increase for the fiscal year beginning April 1, 2013

For the Management Association employees:

3% increase for the fiscal year beginning April 2013

Seconded by Alderman Genewick and adopted. Ayes 6.

**121912.5**

By Alderman Genewick:

Resolved, that the City Treasurer be and the same is hereby authorized and directed to transfer funds from under expended appropriations accounts to over expended accounts in the 2012 General, Water, Sewer, and Refuse Fund budgets and to appropriate fund balance to the extent necessary to balance the budgets, and furthermore, report to the Common Council on those accounts having had transfers.

Seconded by Alderman McCaffrey and adopted. Ayes 6.

**121912.6**

By Alderman Genewick:

Resolved, that the City Treasurer is hereby authorized and directed to transfer any balances remaining in 2012 budgetary accounts 01-9000-0800, 02-9000-800, and 03-9000-800 (workers compensation) to their respective General, Water, and Sewer "Worker Compensation Reserve Fund" accounts.

Seconded by Alderman Fogle and adopted. Ayes 6.

**121912.7**

By Alderman Genewick:

Resolved, that pursuant to the recommendation of the Board of Estimate & Apportionment the Manufacturers & Traders Trust Company, J. P. Morgan Chase & Co. Bank, Key Bank, First Niagara Commercial Bank and Citizens Bank be designated as depositories of City funds for fiscal year 2013, provided said banks comply with the terms and conditions as set forth in the City of Lockport's Investment Policy.

Seconded by Alderman Schrader and adopted. Ayes 6.

**121912.8**

By Alderman Genewick:

Resolved, that the City tax roll for year 2013 be and the same is hereby confirmed and the City Clerk is hereby authorized and directed to certify thereto and deliver said tax rolls to the City Treasurer for collection.

Seconded by Alderman Kibler and adopted. Ayes 6.

### **121912.9**

By Alderman Lombardi:

Resolved, that pursuant to their request, Great Lakes Racing, LLC is hereby granted permission to use the rest room facilities and pavilion at Nelson C. Goehle Wide Waters Marina on Saturday, January 26, 2013, for a resting shelter for the Beast of Burden Winter race. Said permission is subject Great Lakes Racing, LLC filing a certificate of insurance with the City Clerk naming the City of Lockport as additional insured, and be it further

Resolved, that the Director of Engineering is hereby authorized and directed to arrange for the preparation of the restroom facilities for said event and to arrange for delivery of barricades to close off the parking lot.

Seconded by Alderman Kibler and adopted. Ayes 5. Abstention 1 – Ald. Genewick.

### **121912.10**

By Alderman Genewick:

Whereas, funds were authorized through a BAN to purchase and equip replacement vehicles in 2012 for the police department, and

Whereas, the total cost of the purchase made exceeded the allotted dollars, and

Whereas, there are funds available in the police department budget to cover the overage, now therefore be it

Resolved, that the City Treasurer is hereby authorized and directed to transfer funds from the General Fund to the Capital Fund in the amount of \$4,309.60 and modify the budget as follows:

Increase:	Interfund Transfers	001-9500-9901
Decrease:	Rent	001-3120-0433
Increase:	Interfund Revenues	004-0004-5031
	Police Vehicles/Equip	001-0520-4116

Seconded by Alderman Lombardi and adopted. Ayes 6.

### **121912.11**

By Alderman Schrader:

Resolved, that the bid proposal of Lock City Supply Inc., Lockport, NY, received on December 6, 2012 for water meters, being the only bid received, be accepted in the amount as reported in a communication from the City Clerk – report of bid proposals. Cost of same to be charged to account #002 8340 0270 Water Meters.

Seconded by Alderman McCaffrey and adopted. Ayes6.

### **121912.11A**

By Alderman Schrader:

**WHEREAS**, pursuant to the request of Michael Molinaro and the recommendation of the Property Management Committee of the City of Lockport, it is the desire of the City of Lockport to convey ownership of a portion of a certain municipal parking lot located in the downtown business district to the private sector thereby returning the same to the tax rolls and alleviating the City of the requisite manpower, equipment, and liability incident to ownership, and

**WHEREAS**, Michael Molinaro desires to purchase part of Municipal Parking Lot west of his property consisting of approximately 70 feet by 121 feet in depth, and ,

**WHEREAS**, the City of Lockport desires to sell the subject lot, pursuant to section C-61 and C-159 of the Lockport Charter, for a fair and reasonable consideration of \$1,000.

**NOW THEREFORE BE IT**

**RESOLVED**, that the Mayor be and is hereby authorized to execute any and all documents for the conveyance of said parcel to Michael Molinaro for the price of \$1,000.

Seconded by Alderman McCaffrey and adopted. Ayes 6.

By Alderman Lombardi:

Resolved, that the reading of the foregoing resolution be and the same is hereby waived.

Seconded by Alderman Kibler and adopted. Ayes 6.

**121912.11B**

By Alderman Schrader

**WHEREAS**, on December 23, 2004, the City of Lockport ("Lockport") entered into an Urban Renewal Agreement with Ulrich City Centre, LLC ("Ulrich") to build City Centre, and

**WHEREAS**, pursuant to the above Agreement, Lockport transferred ownership of the South Block (the "Site") to Ulrich for \$1.00 and gave the developer grants totaling \$1,206,446.38 (\$500,000 of city funds, \$250,000 from bed tax, \$200,000 of state funds, \$200,000 of small cities money and \$56,446.38 in site work such as the removal of concrete foundations, stone, and the installation of storm sewers, and

**WHEREAS**, paragraph 13 of the Urban Renewal Agreement that states: "The City covenants and represents to the Company that the activities of the City and, to the best of the City's knowledge after due inquiry, the activities of any past or present owner or operator of the real property of which the Site is a part have not resulted in the generation, storage, disposition or release, except pursuant to law, of any flammable, explosive or radioactive materials, nor of any hazardous waste or hazardous toxic substances or related materials as those terms may be defined from time to time in any applicable or relevant state or federal environmental laws or regulations, including the Resource Conservation and Recovery Act (42 USC, 6901 et seq.), the Comprehensive Environmental Response Compensation and Liability Act of 1989 and the Hazardous Materials Transportation Act (49 USC, sec. 1801 et seq.). None of the above items are now present on the site in a hazardous substance at the time of the disposal. This representation is based upon an inspection of the improvements and the site by the City. Accordingly, the City agrees to indemnify and hold harmless the Company, its successors, assigns, officers, directors, employees and agents from and against any and all liability and damages including all foreseeable and unforeseeable consequential damages, directly or indirectly arising out of the use, generation, storage or disposal of any hazardous substance, as such is defined in any applicable and relevant federal or state laws, rules or regulations, including the aforementioned federal laws, by the City or any prior owner or operator of the site. This indemnity shall include, without limitation, the cost of any required or necessary repair, clean up or detoxification and shall include the preparation of any enclosure or other required plans to the full extent that such action is caused by, or is attributable, directly or indirectly, to the presence, use, generation, storage, release or disposal of such hazardous substances by any person on the site," and

**WHEREAS**, on or about July 29, 2012, environmental test results indicated the presence of hazardous substances on a portion of the Site, more particularly located underneath the existing parking lot (Parking Lot); and

**WHEREAS**, on December 17, 2012, the City received the results of an independent review of the above environmental test from Conestoga-Rovers & Associates that stated; “although concentrations of PCE and related degradation products and some petroleum-related compounds were detected in the soil, concentrations do not exceed risk-based action levels for the anticipated use of the property (parking or surface activities),” and

**WHEREAS**, the City and Ulrich desire to address certain issues created by the presence and discovery of the hazardous substances underneath the Parking Lot.

**NOW THEREFORE, BE IT**

**RESOLVED**, that the Mayor be and is hereby authorized to execute any and all documents to consummate the transfer of the City Centre parking lot back to the City, and be it further

**RESOLVED**, that the Mayor be and is hereby authorized to negotiate and execute an easement or long term lease with Ulrich City Centre permitting Ulrich City Centre, its successors and assigns the right to use said parking lot subject to:

1. A policy of public liability and property damage insurance with respect to the Premises in an amount not less than One Million (\$1,000,000) Dollars per occurrence combined single limit bodily injury and property damage liability. The policy shall name the City as an additional named insured and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) days’ prior written notice. A copy of the policy or a certificate of insurance shall be delivered to City.
2. Ulrich City Centre and its assigns and successors shall have the option to purchase the Parking Lot from the City for the sum of One Dollar
3. Ulrich City Centre shall be indemnified for and held harmless from any liability for the remediation of the hazardous substances.
4. The City reserves the right to use said parking lot free of charge at such times as the parties may mutually agreed upon. Such consent of Ulrich City Centre will not be unreasonably withheld.

Seconded by Alderman Genewick and adopted. Ayes 6.

**121912.12**

**ADJOURNMENT**

At 6:15 P.M. Alderman Kibler moved the Common Council be adjourned until 6:00 P.M., Wednesday, January 2, 2013.

Seconded by Alderman Fogle and adopted. Ayes 6.

RICHELLE J. PASCERI  
City Clerk